

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

DONNELL PHILLIPS,

Plaintiff,

v.

PAULA GREER, *et al.*,

Defendants.

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CIVIL ACTION NO. 5:19-CV-00115-RWS

ORDER

Plaintiff Donnell Phillips, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged violations of his constitutional rights. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The Magistrate Judge ordered Plaintiff to pay an initial partial filing fee of \$225 in accordance with 28 U.S.C. § 1915(b). Docket No. 5. Plaintiff did not comply with this order but instead filed a response stating that he had no gold or silver, the lawful money for paying such a fee; that the filing fee order violates his rights under the Ninth Amendment as well as his right of access to court; and that there is no law requiring a filing fee for the exercise of constitutional rights. *See* Docket No. 7.

After reviewing the response, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 8. Plaintiff received a copy of this Report on September 29, 2020, but filed no

objections thereto. Docket No. 9. Accordingly, Plaintiff is not entitled to *de novo* review by the District Judge of those findings, conclusions and recommendations, and except upon grounds of plain error, he is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court.

Nonetheless, the Court has reviewed the pleadings in this case and the Report of the Magistrate Judge and agrees with the Report of the Magistrate Judge. *See United States v. Raddatz*, 447 U.S. 667, 683 (1980) (“[T]he statute permits the district court to give to the magistrate’s proposed findings of fact and recommendations ‘such weight as [their] merit commands and the sound discretion of the judge warrants’”) (quoting *Mathews v. Weber*, 23 U.S. 261, 275 (1976)).

The Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court.

So ORDERED and SIGNED this 7th day of December, 2020.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE